IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1368 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

JAYSUKHLAL CHUNILAL DESAI

Versus

DISTRICT REGISTRAR

Appearance:

MR MJ TRIVEDI for Petitioner

MR PREMAL JOSHI, AGP for Respondent No. 1, 2 & 3

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 23/02/2001

ORAL JUDGEMENT

1. The petitioner seeks a direction on the respondents authorities to provide adequate employment to the petitioner on compassionate ground.

2. The petitioner's father, who was working as Sub-Auditor under the District Registrar of Cooperative Societies, Junagadh, passed away on 1st July 1981 due to

heart attack as stated in the petition. The petitioner therefore made an application on 8-7-1981 for a compassionate appointment. According to the petitioner, that application was not accepted vide communication dated 23-12-1982. He therefore made a fresh application on 21-1-1983. He again sent a reminder on 19-12-1984, and thereafter, further reminders. According to the petitioner, he is entitled to the benefit of the policy of providing a job to one of the family members of the deceased employee. It is contended that the attitude of the respondents was violative of the fundamental right of the petitioner guaranteed by Article 14 of the Constitution.

3. It has been brought on record in the affidavit in reply filed on behalf of the State Government that the petitioner's first application was turned down in December 1982 and thereafter, even his second application came to be rejected as the petitioner was not falling within the prescribed norms. It is stated that the Government have framed norms including financial norms and the case of the petitioner did not fall within those norms which were settled by the Government. The petitioner's case did not fall within the income criteria fixed by the Government under letter dated 12-5-1977. His second application was therefore rejected by the communication dated 27-1-1989. It is contended that there is no vested right of the petitioner to appoint him on compassionate ground.

4. The version of the respondents that the petitioner did not satisfy the criteria fixed for giving compassionate appointment and that the income criteria was also not fulfilled, has gone uncontroverted. If the petitioner was not eligible for being given appointment on compassionate ground as per the norms laid down by the Government for such appointment, no question of any violation of fundamental right guaranteed by Article 14 can arise. As held by the Supreme Court in Haryana State Electricity Board v. Naresh Tanwar and another, reported in (1996) 8 SCC 23, compassionate appointment cannot be granted after a long lapse of reasonable period and the very purpose of compassionate appointment, as an exception to the general rule of open recruitment, is intended to meet the immediate financial problem being suffered by the members of the family of the deceased employee. Such consideration cannot be kept binding for years. Compassionate appointment would be permissible only when there are rules providing such appointment and in consonance with such rules. Twice the application of the petitioner was considered and both the times, it was

rejected. As finally communicated on 27-1-1989, he was not fulfilling the eligibility criteria including the income criteria. Therefore, the petitioner cannot claim any right for getting an appointment on compassionate ground. His only right was to be considered for the purpose and on consideration, it is found that his case does not fall within the norms which were laid down for the purpose.

In this view of the matter, there is no substance in this petition and it is rejected. Rule is discharged with no orders as to costs.

FEBRUARY 23, 2001 [R.K.ABICHANDANI, J.]
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